

SECRET

19 February 1965

MEMORANDUM FOR THE RECORD

SUBJECT: Electronic Eavesdropping Hearing - 18 February 1965  
Senate Judiciary Subcommittee on Administrative  
Practice and Procedure

1. The undersigned attended the hearing to observe the effectiveness of the arrangements Messrs. [redacted] made with Mr. Fensterwald, the Subcommittee Counsel, to protect Mr. [redacted] a subpoenaed witness [redacted]

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terms and he could not help but feel that they strongly identify with government interest.

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6. With the exception of [ ] and [ ] counsel, all the witnesses freely demonstrated their gadgets (even though some of the gadgets were not known to others in the trade). However, they firmly held the line and did not openly disclose on questions relating to their customers, sales volume, and judgments on whether it was proper for their customers to use such devices.

7. The hearings will resume on 23 February 1965.

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[ ]  
Office of Legislative Counsel

16 February 1965

25X1 [ ] During the course of the day a meeting was held  
in which representatives of TSD, Commo, Security, Logistics and this  
25X1 office developed the facts concerning the Agency's relationships with Mr.  
[ ] who is scheduled to appear  
before the Senate Judiciary Subcommittee on Administrative Practice and  
25X1 Procedure this Thursday. As a subsequent meeting with [ ] it  
was ascertained that [ ] has given considerable thought to his appearance  
before Senator Long's Subcommittee. [ ] said he is prepared to protect  
25X1 his relationship with the Agency and with the FBI even at the risk of being  
cited for contempt of Congress if necessary. [ ] was advised of our  
25X1 meeting with the Chief Counsel of the Subcommittee and it was agreed [ ]  
should meet with the Counsel this afternoon to review the ground rules  
25X1 for his appearance. [ ] is to report to us on this meeting. We will then have  
a follow up meeting with Subcommittee Counsel and Chairman Edward Long if  
possible.

17 February 1965

25X1 [ ] [ ] talked with Mr. Bernard Fensterwald, of the Senate Subcommittee on Administrative Practice and  
25X1 Procedure staff, with further reference to the appearance of [ ]  
in Subcommittee hearings tomorrow. Mr. Fensterwald said [ ] had  
25X1 visited him yesterday, that they had a very good meeting, and that the  
Chairman proposed to make an opening statement which would delineate the  
Subcommittee's area of interest concerning [ ] activities to his  
25X1 relationships with the Treasury Department and the Department of Health,  
Education and Welfare. In addition, Mr. Fensterwald said he proposes  
to alert each member of the Subcommittee advising them to avoid any  
penetrating questions and has also made arrangements with [ ]  
25X1 to speak up in his behalf if it appears the situation warrants.

25X1 Mr. Fensterwald was thanked for his cooperation. We repeated  
the statement that [ ] testimony before the Subcommittee was  
a matter of concern at the highest level and indicated we would attempt to  
speak to the Chairman personally if it was physically possible to do so. Mr.  
Fensterwald said he appreciated our situation and had no objection to our  
talking with Chairman Edward Long.

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21 April 1965

25X1 [redacted] At his request, I met with Mr. Bernard Fensterwald, Chief Counsel of the Subcommittee on Administrative and Practice and Procedure. Mr. Fensterwald said he had received at least 45 or 50 letters and other communications alleging that American scientists had developed an electronic means for reading a persons mind, i.e., being able to detect the unspoken word. Fensterwald said he had been inclined to regard these communications as crackpot items but similar statements by this number of persons, many of whom are respected scientists, physicians, etc., compel him to at least look into this. He said these people had also indicated that this same device could be used to implant material in an individuals mind. Although Fensterwald feels this is all ridiculous, he would appreciate our checking with our scientists on it. I told him I would be glad to do so.

25X1 [redacted]

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15 September 1975

25X1 [redacted] met with Bernard Fensterwald, Chief Counsel of the Subcommittee on the Administrative Practice and Procedure of Senate Judiciary Committee. Also present was Raymond Cole of the staff. Fensterwald explained that neither the Chairman nor the staff had any desire or intent to get into security agencies such as CIA. He did outline some of the difficulties they have had in getting information from other law enforcement agencies. He assured us of cooperation and indicated areas where we might be of help to him in avoiding any difficulties. We also told Fensterwald that we wished to discuss this with the Chairman and we will be back in touch with Fensterwald after we have secured additional facts. See more detailed Memorandum for the Record.

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Honorable Edward V. Long  
Chairman, Subcommittee on  
Administrative Practice and  
Procedure  
Committee on the Judiciary  
United States Senate  
Washington 25, D. C.

Dear Mr. Chairman:

I want to thank you and the members of your Subcommittee staff, particularly your Chief Counsel Mr. Bernard Fensterwald, for your cooperation and understanding with respect to the matter which our representatives recently discussed with you.

Our problems are not always apparent to those outside of our field and, therefore, it is all the more gratifying to receive the type of assistance which you have given. If we may be of any assistance to you or the Subcommittee staff in this or any other matter, please do not hesitate to call on us.

Faithfully yours,

Marshall S. Carter  
Lieutenant General, USA  
Acting Director

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MEMORANDUM FOR THE RECORD

SUBJECT: Meeting with Mr. Bernard Fensterwald, Chief Counsel  
of the Senate Judiciary Subcommittee on Administrative  
Practice and Procedure

1. On this date, [redacted] visited with Mr. Bernard Fensterwald to discuss with him the scheduled appearance of [redacted] of the [redacted] before the Senate Subcommittee on Administrative Practice and Procedure on Thursday, 18 February at 10:00 A.M. [redacted]

[redacted] Mr. Ray Cole, Investigator on the Subcommittee staff, joined us shortly after our meeting started.

3. Mr. Fensterwald restated the Subcommittee's desire not to concern itself with the activities of security agencies, at this time. He said the Subcommittee had no intention of delving into CIA matters under any circumstances. He made it quite clear, however, that in due time



the Subcommittee probably would be looking into the activities of certain law enforcement agencies as those agencies utilized monitoring and other "snooping" equipment. He mentioned specifically the Bureau of Narcotics, Alcohol Control Division, the Internal Revenue Service and the FBI.

4. Messrs. Fensterwald and Cole were extremely cordial and devoted considerable time to explaining the situation from the Subcommittee standpoint. Mr. Fensterwald said that despite repeated attempts by the Subcommittee to obtain certain relatively routine information from Treasury, the Department of Health, Education and Welfare, and the Department of Justice on the utilization of this type of technical equipment, it had received no cooperation whatsoever. He did say, however, that the Department of State, through a Mr. Weiss, had been helpful and had made certain technical devices available to the Subcommittee for demonstration purposes. According to Mr. Fensterwald, these hearings have been scheduled for the purpose of "educating" the Subcommittee members. He said that at this point, the members have no idea whatsoever as to what kind of equipment is involved. It is for this reason that the Subcommittee has called [ ] and several other manufacturers of this type of equipment to appear. 25X1

5. Mr. Fensterwald said the Subcommittee had been in touch with [ ] on several occasions and [ ] visited him awhile back. He said [ ] had been reluctant to appear before the Subcommittee in open session, had avoided informal requests to appear, and had suggested the possibility of appearing in an executive session. The Subcommittee finally felt it necessary to require [ ] appearance under subpoena. Mr. Fensterwald pointed out that while the Subcommittee had no desire to get into any CIA matters he could not assure us that this would not occur deliberately or inadvertently particularly if [ ] appeared in a hostile atmosphere. On the other hand, he suggested that if [ ] should appear and read an informative prepared statement, Subcommittee questioning could be reduced to a minimum and the likelihood of any references to the Agency be diminished considerably. He added, however, that even under these circumstances he could not guarantee that a senator would not ask a question which might involve, either in its statement or its response, some reference to classified agencies or CIA specifically. 25X1

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6. Mr. Fensterwald reiterated what he considers to be the Subcommittee's problem with the Treasury Department and indicated he was not at all optimistic that Treasury and other executive agencies would be forthcoming in these hearings. The Subcommittee schedule calls for the eventual appearance of witnesses from Treasury, Justice, HEW and Defense. At our request, he provided us with the names of

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25X1 7. We pointed out to Mr. Fensterwald that the Agency concern over [ ] appearance extended to the highest level and that we propose to talk with Chairman Edward Long on the matter, but wished to talk with him as Subcommittee Counsel first. Mr. Fensterwald said he was confident Senator Long would provide us with essentially the same information but was sure the Senator would be glad to discuss the situation with us. He also said he would do everything he could to avoid embarrassment to the Agency in these hearings but that the Subcommittee feels that to be effective, the hearings must be in open session and the witnesses, if not forthcoming, must be interrogated with respect to their activities. Mr. Fensterwald also made it clear he anticipates that eventually it will be necessary for the Subcommittee to pursue hearings with non-security agencies in order to get to the heart of the matter which, from the Subcommittee's standpoint, is the invasion of the Constitutional rights of individuals through the improper use of eavesdropping techniques by law enforcement agencies.

8. We advised Mr. Fensterwald that we wished to inquire further into the facts of this situation, to talk directly with [ ] and then 25X1 be back in touch with him in order to work out an amicable and mutually agreeable solution to this problem.

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Assistant Legislative Counsel

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OLC: 75-2915/a

12 DEC 1975

MEMORANDUM

SUBJECT: Agency Contact with the "Long Committee"

REFERENCE: Bader to [ ] Letter, dated 11 November 1975 STATINTL

Copies of items recording contact between CIA's Office of Legislative Counsel and the "Long Committee" in regard to that Committee's investigation in 1965 into the use of mail covers and other investigative techniques by Federal agencies have been provided to the Subcommittee on Administrative Practice and Procedure of the Senate Judiciary Committee. Mr. Thomas M. Susman, Chief Counsel of that committee has been notified of your interest.

[ ] STATINTL

George L. Cary  
Legislative Counsel

Attachments

Distribution:

Original - Review Staff, W/Atts.

✓ 1 - OLC Subject, W/Atts.

1 - OLC Chrono, WO/Atts.

OLC: RC: crh (typed 4 December 1975)

[ ] STATINTL